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PERFUMANIA, INC. and
MAGNIFIQUE PARFUMES AND COSMETICS, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ERLINDA MARCELO,

Plaintiff,

v.

PERFUMANIA, INC.; MAGNIFIQUE
PARFUMES AND COSMETICS, INC.; and
DOES 1 through 10,

Defendants.

Case No. 4:10-CV-04740-SBA (DMR)

**SECOND STIPULATION TO STAY
CASE PENDING POSSIBLE
SETTLEMENT; ORDER**

Complaint Filed: October 20, 2010
Trial Date: February 13, 2012

Plaintiff ERLINDA MARCELO ("Plaintiff") and Defendants PERFUMANIA, INC. and MAGNIFIQUE PARFUMES AND COSMETICS, INC. ("Defendants"), through their counsel of record, hereby stipulate to stay this action in its entirety for an additional 90 days for the reasons that follow:

As earlier reported to the Court, Plaintiff and Defendants have reached a tentative settlement, but because Plaintiff is now over age 65 and may have received Medicare benefits for which Medicare may assert certain lien rights against the settlement proceeds, the parties have yet to agree on Medicare provisions for a proposed settlement and release agreement. To try to resolve the Medicare issues for a settlement and release agreement, Plaintiff's counsel earlier requested a conditional report from the Medicare "Coordination of Benefits Contractor" that ("COBC") that details all Medicare benefits received by Plaintiff. In their initial stipulation to stay the case filed on December 13, 2011, all parties believed it would take approximately eight weeks to obtain the conditional report from the COBC. To date, Plaintiff has yet to receive such report, although COBC earlier inquired about the specific identity of the named insured under the insurance policy under which Defendants are being provided a defense. Plaintiff and Defendants believe that once the conditional report is received from COBC, they will be in a position to agree on Medicare language for the settlement and release agreement such that a settlement can be agreed to in all respects and then concluded. The parties presently estimate it will take an additional 90 days to receive the report and then negotiate the final terms of the settlement and release agreement.

Therefore, Plaintiff and Defendants stipulate and request that the Court stay this action in its entirety for an additional 90 days to allow Plaintiff and Defendants sufficient time to obtain the conditional report from COBC in an effort to try and conclude the settlement to which they have tentatively agreed.

IT IS SO STIPULATED.

Date: March 14, 2012

LAW OFFICES OF JOHN OTA

By: /s/ [John Ota] as authorized on 03/14/12

JOHN OTA

Attorneys for Plaintiff ERLINDA MARCELO

Dated: March 14, 2012

JACKSON LEWIS LLP

By: /s/ [Douglas M. Egbert]

ROBERT J. SCHNACK

DOUGLAS M. EGBERT

Attorneys for Defendants PERFUMANIA, INC. and
MAGNIFIQUE PARFUMES AND COSMETICS,
INC.

ORDER

Based on the foregoing stipulation, and otherwise finding good cause therefor,

IT IS HEREBY ORDERED that this action is stayed in its entirety until June 13, 2012, at which time the parties shall report to the Court whether this action has settled.

Dated: March 15, 2012



SAUNDRA B. ARMSTRONG
UNITED STATES DISTRICT COURT JUDGE